IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY SIXTH DAY OF MARCH TWO THOUSAND AND SEVEN

:PRESENT:

THE HON'BLE SRI JUSTICE BILAL NAZKI

and

THE HON'BLE SRI JUSTICE G. BHAVANI PRASAD

WRIT PETITION NO : 1811 of 2007

Between:

M/s.First Leasing Company of India limited, 749, Anna Salai, Chennai-600 002, represented by its Assistant Manager-Sales Tax, Mr.S.Ashok Kumar. ..... Petitioner

AND

The Commercial Tax Officer, Punjagutta Circle, Hyderabad.
.....Respondent

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of mandamus or any other appropriate writ or order or direction declaring the action of the respondent in not refunding the sum of Rs.21,45,648/- being excess tax paid by the petitioner for the assessment years 1990-91, 1991-92, 1993-94 & 1994-95 under the Andhra Pradesh General Sales Tax Act, 1957 as illegal, arbitrary and unjustified and further direct the respondent to refund the excess amount of Rs.21,45,648/- together with interest at 12% per annum from 25-9-1998 to the date of payment and also interest on the accumulated interest at 12% after deducting Rs.8,31,574/- adjusted towards monthly tax dues for the period July, 2004 to March, 2005 and also award exemplary costs.

The petition coming on for hearing, upon perusing the petition and the affidavit filed in support there of and upon hearing the arguments of Sri S.Dwarakanath, Advocate for the Petitioner and of G.P.for Commercial Taxes on behalf of the Respondent.

THE COURT MADE THE FOLLOWING ORDER

"The respondent shall furnish the list of the Officers who handled this matter from 25-03-1998. It is conceded by the respondent that the petitioner is entitled to a refund of Rs.21,45,648/-. It is also conceded in the counter affidavit that orders in the appeal were passed on 25.3.1998, but refund order was not passed by the authorities till 18.7.2003. It took the Officers more than 5 years to pass the consequential order of refund although orders in the appeal have passed in March, 1998. Even, after a formal order of refund was passed on 18.7.2003, the amounts have not been refunded till date. Under the provisions of law, the petitioner is entitled to the refund of amount along with interest at the rate of 12%. It is not fair to pay interest at the rate of 12% to the petitioner from the funds of the State on the ground of negligence of the Officers. However, the petitioner cannot be deprived of the interest he is entitled to in accordance with law. The statutory rate of interest is 12%. Therefore, the list of the Officers who handled the matter needed to be perused, so that this Court could examine the possibility of fastening the

liability of interest on the officers, who are responsible for not refunding the amount. This list be furnished within one week.

List on 3.4.2007."

ASSISTANT REGISTRAR

// **TRUE COPY** //

for ASSISTANT REGISTRAR

1. The Commercial Tax Officer, Punjagutta Circle, Hyderabad.
2. Two CCs to the G.P.for Commercial Taxes, High Court of A.P., Hyd. (OUT)
3. One CC to Sri S.Dwarakanath, Advocate (OPUC)
4. Two spare copies .

RV

RV

Dated 29.3.2007

HIGH COURT

BNJ
&
GBPJ

Dated 26.3.2007

NOTE: LIST ON 3.4.2007

ORDER
WP.NO. 1811 OF 2007

Direction

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Dated 29.3.2007

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Direction